

REMARKS

I. Status of the Claims

Claims 24- 43, and 45-46 are pending in this application. Claims 45 and 46 have been amended and claim 44 has been cancelled without prejudice or disclaimer. These amendments raise no issue of new matter and Applicants respectfully request their entry. Additionally, Applicants would like to thank the Examiner for withdrawing the rejection of claims 24-43.

II. Claim Rejections under § 112

Claim 45 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Office Action at page 2. Specifically, the Examiner alleges that the term “the thermal media” in claim 45 lacks antecedent basis. *Id.*

Applicants respectfully submit that this rejection has been rendered moot by the foregoing amendment to claim 45 wherein the language “provided with a thermal media” has been added to the claim.

Accordingly, for at least this reason, Applicants request that this rejection be withdrawn.

III. Claim Rejections Under 35 U.S.C. § 103

Claim 44 and 45 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fomey et al. (U.S. Patent No. 5,942,142) (“Fomey”) in view of Toda et al. (Japanese Patent No. 64-053192) (“Toda”) for the reasons disclosed on page 2 of the Office Action. The rejection with respect to claim 44 has been rendered moot by the

cancellation of claim 44. With respect to claim 45, Applicants respectfully traverse this rejection for the at least the reasons set forth below.

Applicants respectfully submit that the Examiner has failed to meet his burden of proof to set forth a prima facie case of obviousness. The Examiner has not made the requisite showing, as is required by M.P.E.P. § 2142, that (1) that the prior art reference or references teach or suggest all the claim limitations and that (2) there is some suggestion or motivation to modify the reference or to combine the reference teachings.

The Examiner has not shown and can not show that any of the cited references teach or suggest a processing chamber comprising “a conveyor belt forming an endless loop with a processing part and an idling part, the conveyor belt comprising a plurality of thermal conductive elements, each of the elements being adapted to obtain a first orientation in the processing part of the loop and adapted to obtain a second orientation in the idling part of the loop, the first orientation providing a substantially planar and continuous surface for supporting the product items across at least a number of the elements and wherein the second orientation of the elements provides a passage between the elements so as to allow the gas to flow between the elements” as does the method of amended claim 45.

Additionally, the Examiner has not shown any motivation to combine the reference teachings. The Federal Circuit has established a high burden for the Examiner to set forth a prima facie case of obviousness. The Court has held that “[t]he factual inquiry whether to combine references must be thorough and searching. It must be based on objective evidence in the record. The precedent has been reinforced in

myriad decisions, and cannot be dispensed with.” *In re Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002). The Court further held that “[t]he examiner’s conclusory statements . . . do not adequately address the issue of motivation to combine. This factual question is material to patentability, and could not be resolved on subjective belief and unknown authority.” *Id.* at 1343-44.

Here, the Examiner has not presented objective evidence to support his assertion of obviousness. The Examiner’s rejection in the Office Action states only that:

It would have been obvious to adapt the belt structure of Toda et al to the oven of . . . Forney et al since Toda et al teaches such to improve durability in oven applications.

Office Action at 2. The fact that both references are oven applications comprising conveyors or belts is not enough to make a prima facie case of obviousness when considering the myriad of references in that technology. Indeed, a cursory search on the USPTO website indicates that there 48 patents that have issued just since 1976 that have the term “oven” and “conveyor” or “belt” in the title. There is simply no evidence that one skilled in the art would have been motivated to choose the belt structure of Toda from the myriad of existing references directed to oven applications.

For at least the above reasons, Applicants respectfully submit that Forney in view of Toda does not establish a prima facie case of obviousness. Accordingly, Applicants respectfully request that this ground of rejection be withdrawn.

VI. Conclusion

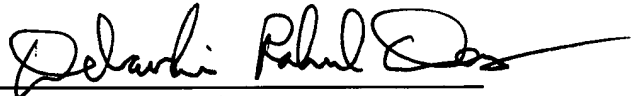
In view of the foregoing amendment and remarks, Applicants respectfully request the reconsideration and timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 7, 2004

By: 
Debarshi Rahul Das
Reg. No. 55,100

731134_1.DOC